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OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

**DEPARTMENT OF
TELECOMMUNICATIONS & ENERGY**

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Received

AUG 10 2000

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SENT VIA FEDERAL EXPRESS

August 2, 2000

CC DOCKET: 96-98
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Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th St., SW
Suite TW-A325
Washington, DC 20554

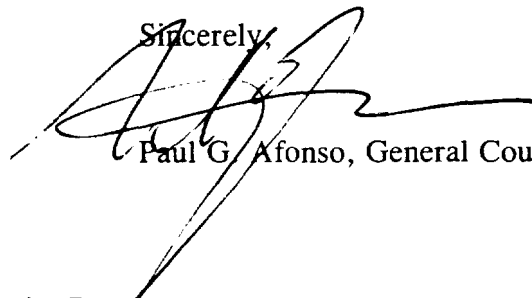
NSD-L-00-169

Re: Massachusetts Department of Telecommunications and Energy's Petition for
Delegation of Additional Authority to Implement Number Conservation
Measures in Massachusetts

Dear Ms. Salas:

Enclosed for filing in the above matter please find one original and five copies of the Massachusetts Department of Telecommunications and Energy's Petition for Delegation of Additional Authority to Implement Number Conservation Measures in Massachusetts. Kindly stamp one copy and return it to us in the enclosed stamped, self-addressed envelope.

Sincerely,



Paul G. Afonso, General Counsel

Enclosure

cc: Al McCloud, Common Carrier Bureau, Network Services (w/enc.)
Jared Carlson, Common Carrier Bureau, Network Services Division (w/enc.)
Aaron Goldberger, Common Carrier Bureau (w/enc.)
Attached Service List (w/enc.)

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY'S
PETITION FOR DELEGATION OF ADDITIONAL AUTHORITY TO IMPLEMENT
NUMBER CONSERVATION MEASURES IN MASSACHUSETTS

Commonwealth of Massachusetts
Department of Telecommunications and Energy

James Connelly, Chairman
W. Robert Keating, Commissioner
Paul B. Vasington, Commissioner
Eugene J. Sullivan, Jr., Commissioner
Deirdre K. Manning, Commissioner

One South Station, 2nd Floor
Boston, MA 02110
617-305-3500

Dated: August 2, 2000

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY'S
PETITION FOR DELEGATION OF ADDITIONAL AUTHORITY TO IMPLEMENT
NUMBER CONSERVATION MEASURES IN MASSACHUSETTS

The Massachusetts Department of Telecommunications and Energy ("Department" or "M.D.T.E.") respectfully requests that the Federal Communications Commission ("Commission" or "FCC") grant the Department additional authority to implement number conservation measures in Massachusetts on a state-wide basis in the interim until the FCC implements national conservation measures. The Department requests this additional authority to delay or prevent the need for new area codes for the geographic area served by the existing 413 area code in the western Massachusetts Local Access and Transport Area ("LATA") and the four relief codes to be fully implemented in the eastern Massachusetts LATA by April 2001.¹ The authority requested by the Department is virtually identical to the authority delegated to the Department by the FCC in the existing area codes in the eastern regions of Massachusetts in September 1999,² and would therefore provide the Department with state-

¹ In April 2000, the Department determined that area code relief in eastern Massachusetts was unavoidable and ordered the implementation of four new overly codes. Petition of Lockheed Martin IMS the North American Numbering Plan Administrator, for Area Code Relief for the 508, 617, 781 and 978 Area Codes in Eastern Massachusetts, D.T.E. 99-11 and D.T.E. 99-99 (2000) ("2000 Area Code Relief Order"). The four relief codes are 774, 857, 339 and 351 to overlay 508, 617, 781 and 978, respectively.

² Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes, Order, CC Docket 99-200, 14 FCC Rcd 17447 (1999) ("Massachusetts Delegation Order").

wide authority to undertake number conservation measures until the FCC implements national conservation measures.

I. BACKGROUND

In the past few years, Massachusetts has been an area of substantial area code relief activity. To address the extraordinary growth in the telecommunications industries in this state and the subsequent demand for numbers from carriers and consumers, the Department has ordered the creation of six new area codes in the state in the past three years.³ While the creation of so many additional codes is indicative of the robust state of the telecommunications industry within the state and the strength of the Massachusetts economy, the addition of so many new codes has caused considerable disruption, inconvenience and expense to both consumers and businesses within the state.

On May 1, 1998, the two new codes created by the Department's 1997 Area Code Relief Order were fully implemented. Less than two weeks later, on May 12, 1998, the Department received notice from the North American Numbering Plan Administrator

³ In 1997, the Department created two new codes through a geographic split of the existing 617 and 508 Numbering Plan Areas ("NPAs"). Investigation by the Department of Public Utilities on its Own Motion to Adopt a Plan for Addressing the Limited Number of Exchange Codes Remaining in Eastern Massachusetts' 617 and 508 Area Codes, D.P.U. 96-61 (1997) ("1997 Area Code Relief Order"). See also n.1, above.

("NANPA")⁴, that the two new codes were already in jeopardy.⁵ Thus, even as telephone numbers were first being assigned from the new codes, all four then-existing codes in eastern Massachusetts were in jeopardy. In September 1999, in an attempt to forestall the need to create even more codes, the Department received from the FCC a delegation of additional authority to undertake various numbering conservation measures in certain eastern Massachusetts area codes.⁶ However, even these additional measures were not sufficient to stave off the need for additional area code relief in Massachusetts. Four new overlay codes will be fully implemented in Massachusetts in April 2001, bringing the current total of area codes in Massachusetts to nine, an extraordinary increase within such a short time.

⁴ At that time, the NANPA was Bell Atlantic Network Services, Inc. This responsibility has since been transferred to NeuStar, Inc. ("NeuStar").

⁵ The NANPA declares an NPA in jeopardy when the forecasted and/or actual demand for NXX resources will exceed the known supply during the planning/implementation interval for relief. See Central Office Code Guidelines, Alliance for Telecommunications Industry Solutions, INC 95-0407-008, April 11, 2000, p. 39. Although it varies in each case, the NANPA estimates the interval from initial planning to relief to be roughly two and a half years.

⁶ Massachusetts Delegation Order at ¶ 1. Specifically, the FCC granted to the Department conditional authority in the 508, 617, 781 and 978 NPAs, to institute thousands-block number pooling trials; reclaim unused and reserved exchange codes, and portions of those codes; maintain rationing procedures for six months following area code relief; set numbering allocation standards; and hear and address claims of carriers seeking numbering resources outside of the rationing process. Id. The authority granted to Massachusetts by the FCC exists in the interim until the FCC acts on a nationwide level to implement thousands-block number pooling and other conservation measures. Id.; see also Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 99-200, FCC 00-104, at ¶ 169 (rel. March 31, 2000) ("Numbering Resource Optimization Order").

Until recently, western Massachusetts, the geographic area currently served by the single 413 NPA,⁷ has been able to avoid the numbering crisis experienced in the eastern regions of the state. However, with the growth of the population, the economy, the telecommunications industry, as well as the unexpected drain of numbers from unified messaging service providers, such as eFax.com, western Massachusetts has joined the rest of the state in heightened concern over the impending lack of numbering resources.

In May 2000 – just after the Department ordered area code relief on April 25 for the eastern Massachusetts LATA in the 2000 Area Code Relief Order – NeuStar notified the Department that the 413 NPA was perilously close to jeopardy status.⁸ At that time, NeuStar estimated that the 413 NPA would exhaust its supply of NXX codes during the third quarter of 2002. On June 20, 2000, NeuStar facilitated an industry meeting in Holyoke, Massachusetts to discuss various relief alternatives for the 413 NPA (the “Implementation Meeting”). Representatives from NeuStar, the industry, the Department, and the Massachusetts Office of the Attorney General attended the Implementation Meeting. At the meeting, carriers reached a unanimous consensus to implement an all-services distributed overlay as the preferred method of relief for the numbering crisis in the 413 NPA. *Although NeuStar has not yet officially declared a jeopardy situation for the 413 NPA*, factual representations made at the

⁷ The area including Springfield, Holyoke, Westfield, and Northampton, Massachusetts comprises the largest Metropolitan Statistical Area within the 413 NPA. See <http://www.census.gov/geo/www/mapGallery/stma99.pdf>.

⁸ See May 8, 2000, Letter from Pamela Kenworthy, NPA Relief Planner – NANPA Eastern Region to Mary L. Cottrell, Secretary of the Department.

Implementation Meeting, as well as the diminishing numbering resources currently available, indicate that without immediate action by the FCC and the Department, the already dwindling numbering resources in the 413 NPA will be depleted earlier than anticipated.

At the Implementation Meeting, NeuStar notified those in attendance that, according to Central Office Code Utilization Survey ("COCUS") data, NeuStar estimates an exhaust in the 413 NPA by *first quarter* 2002, two quarters earlier than the estimate provided just one month prior to the meeting. These forecasts are based on a ten code per month distribution basis. However, assignment data from 1999 show an average distribution rate of twelve codes per month. Moreover, as of the date of the June 20, 2000 meeting, the NANPA was assigning codes at a rate of fourteen per month with only 305 NXX codes available for assignment. Codes in this NPA are being distributed at an average far greater than that forecast, and this acceleration will create a premature exhaust of the NPA unless measures are taken to create new numbering resources or else forestall this rapid distribution. Despite this rapid depletion of numbering resources, members of industry attending the Implementation Meeting chose not to institute a rationing plan at that time. A rationing plan might forestall exhaustion until relief for the 413 NPA is granted.

Furthermore, the Department is struck by the recent drain on numbering resources by unified messaging service providers, such as eFax.com. The Department has been closely monitoring the proceedings in New Hampshire with regard to this Internet facsimile service that appears to request large blocks of numbers primarily in rural and previously non-jeopardy NPAs. As of this date, Massachusetts alone has 28 NXX codes dedicated to eFax.com, with

all but two from the western LATA of Massachusetts.⁹ The Department will continue to watch this previously unanticipated drain on numbering resources, and shares the concern of several states that unified messaging service providers, such as eFax.com, have the potential to create premature exchange code exhaustion throughout the country.

The Department's prior petition for delegation of authority which resulted in the FCC's Massachusetts Delegation Order did not request authority for western Massachusetts. But it has now become clear that without interim conservation authority, it is likely that the Department would have no choice but to create a new area code for western Massachusetts and its residential and business customers. With code conservation authority, western Massachusetts would have a good chance (but no guarantee) of postponing or avoiding a new area code.

Therefore, the Department respectfully requests that the FCC delegate additional authority to undertake various numbering conservation measures in Massachusetts on a state-wide basis, including western Massachusetts and the eastern Massachusetts relief codes. The authority requested by the Department is virtually identical to that granted by the FCC for implementation in the eastern Massachusetts 508, 617, 781 and 978 codes in the Massachusetts Delegation Order and would therefore equalize the Department's authority throughout the state, creating a uniform approach to the Department's state conservation measures until the FCC implements its national number conservation measures. The grant of state-wide authority

⁹ Data gathered from the Massachusetts local numbers available on <http://www.eFax.com> as of June 26, 2000.

to the Department, to include western Massachusetts and the relief codes in eastern Massachusetts, would also comport with the FCC's delegations of authority to other states.¹⁰

Specifically, the Department requests that the FCC grant the Department the authority on a state-wide basis, including the 413 western Massachusetts code, and the 774, 857, 339 and 351 eastern Massachusetts relief codes, until national number conservation measures are implemented, to:

- 1) institute thousands-block pooling trials;
- 2) reclaim reserved NXX codes, and portions of those codes;
- 3) set numbering allocation standards;
- 4) set and/or revise rationing procedures;
- 5) hear and address claims of carriers seeking numbering resources outside the rationing process; and
- 6) maintain rationing procedures for six months following area code relief.

¹⁰ See California Public Utilities Commission Petition for Delegation of Additional Authority Pertaining to Area Code Relief and NXX Code Conservation Measures, Order, 14 FCC Rcd 17485 (1999) ("California Delegation Order"); Florida Public Service Commission Petition for Expedited Decision for Grant of Authority to Implement Number Conservation Measures, Order, 14 FCC Rcd 17506 (1999) ("Florida Delegation Order"). On July 20, 2000, the FCC conditionally granted numbering conservation authority to numerous states seeking authority similar to that sought by the Department. See Order, Docket Nos. 99-200 and 96-98, NSD File Nos. L-99-100 et al., DA 00-1616 (rel. July 20, 2000).

III. FEDERAL AREA CODE CONSERVATION REQUIREMENTS

Congress granted the FCC jurisdiction over numbering issues. The FCC may, in turn, delegate its jurisdiction to state commissions. 47 U.S.C. § 251 (e)(1). In exercising any such delegated authority, state commissions must: (1) facilitate entry into the telecommunications marketplace by making telecommunications resources available on an efficient and timely basis; (2) not unduly favor or disfavor any particular industry segment or group of telecommunications consumers; and (3) not unduly favor one telecommunications technology over another. Massachusetts Delegation Order at ¶ 3 (citing 47 C.F.R § 52.9(a)).

In the Numbering Resource Optimization Order at ¶ 5, the FCC concluded that a nationwide system for thousands-block number pooling will promote more efficient allocation and use of NANP resources than state-by-state administration. The FCC likewise concluded that until a national pooling administrator is selected, the FCC will continue to permit states to implement individual pooling trials through individual requests for additional delegations of authority. Numbering Resource Optimization Order at ¶¶ 128, 169. However, the FCC requires that state commissions receiving new delegations of authority from the FCC must conform to the national framework for number pooling established in the Numbering Resource Optimization Order. Id. at ¶ 169.

In the Numbering Resource Optimization Order, the FCC required that states petitioning for delegations of additional pooling authority must include a showing of three specific criteria: (1) that an NPA in its state is in jeopardy; (2) the NPA in question has a remaining life span of at least a year; and (3) that the NPA is in one of the largest one hundred

Metropolitan Statistical Areas (“MSAs”), or alternatively, the majority of wireline carriers in the NPA are capable of local number portability. Numbering Resource Optimization Order at ¶ 170. The FCC, however, recognized that there may be “special circumstances” where interim pooling would benefit those NPAs that do not meet the above criteria. Id. Without elaborating on what factors may constitute special circumstances, the FCC stated that, upon a satisfactory showing of such special circumstances, it might authorize interim pooling in NPAs that do not meet all of the above criteria. Id.

In the Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission regarding Area Codes 412, 610, 215, and 717, Memorandum Opinion and Order and Order on Reconsideration, CC Docket No. 96-98, 13 FCC Rcd 19009, at ¶ 24 (rel. September 28, 1998) (“Pennsylvania Numbering Order”), the FCC held that rationing of NXX codes should only occur when it is clear that an NPA will run out of NXX codes before implementation of a relief plan. The FCC concluded that it would delegate authority to state commissions to order number rationing only in conjunction with area code relief decisions, if the industry has been unable to reach consensus on a rationing plan to extend the life of an area code until implementation of relief. Pennsylvania Numbering Order at ¶ 24. In response to requests from state commissions for authority to implement rationing procedures, the FCC has denied such requests prior to the state commissions’ adoption of an area code relief plan. See Massachusetts Delegation Order at ¶ 18; Florida Delegation Order at ¶ 40. However, in the California Delegation Order

at ¶¶ 38-41, the FCC found that there were unique circumstances in California which justified the delegation of authority to the Public Utilities Commission to implement NXX rationing procedures prior to the state commission's having decided on a specific plan for area code relief.¹¹

IV. DISCUSSION

The Department submits that Massachusetts currently meets the above criteria required for delegation of additional pooling authority under the Numbering Resource Optimization Order and also that special circumstances exist in Massachusetts to permit the FCC to authorize the additional authority sought by the Department to undertake the requested number conservation measures state-wide in Massachusetts, to include western Massachusetts and the relief codes in eastern Massachusetts. Although NeuStar has not formally declared the western Massachusetts 413 NPA to be in jeopardy, at the June 20, 2000 Implementation Meeting, NeuStar identified the exhaust date of the 413 NPA to be within twenty-four months. Therefore, the projected exhaust date for the 413 NPA is already within the "jeopardy window," i.e., the estimated two and a half year interval between initial planning and relief.¹² *NeuStar is expected to announce in the very near future that the 413 NPA is officially in*

¹¹ In the California Delegation Order at ¶ 38, the FCC noted that California has a statutory requirement mandating public participation in the area code relief planning process at least 30 months prior to the submission of a recommended relief plan to the California Commission. The FCC concluded that this procedural obligation, along with an accelerated rate of NPA exhaust in California, constituted extenuating and unique circumstances justifying a departure from the FCC's accepted procedure. *Id.* at ¶¶ 39-40.

¹² See n.5, above.

jeopardy. Also, as discussed above, the 413 NPA does have an estimated life span of at least one year. Further, the Department has determined that the Springfield, Massachusetts MSA is within the largest one hundred MSAs as designated in In the Matter of Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, FCC 96-286, Appendix D (rel. July 2, 1996). Therefore, the 413 NPA does meet the FCC's criteria for delegation of additional authority pursuant to the Numbering Resource Optimization Order. However, even if the FCC were to determine that the requirement regarding the 413 NPA's jeopardy status is not met to the FCC's satisfaction, special circumstances exist which would allow the FCC, as discussed in the Numbering Resource Optimization Order at ¶ 170, to nonetheless authorize interim pooling (and other number conservation measures) in the areas of Massachusetts not designated in the Massachusetts Delegation Order. These special circumstances in Massachusetts include the presence of unified messaging service providers, such as eFax.com, in the state and its drain of numbering resources with little or no benefit to the consumers of local exchange service, as well as the experience of Massachusetts consumers and businesses as a whole who are facing the prospect of a possible seventh new area code following the creation of six new area codes within the state in only three years. Allowing the Department to investigate and implement a full array of area code conservation measures on a state-wide basis will help mitigate the need for additional area codes in Massachusetts. Given the disruptions, inconvenience and expense that consumers and businesses bear with the introduction of new area codes, the Department should have the option of investigating and possibly delaying the need for new area codes by

implementing the following requested code conservation methods on a state-wide basis, including western Massachusetts and the eastern Massachusetts relief codes,¹³ in the interim until the FCC implements national conservation measures.

A. Institute thousands-block number pooling

The Department requests that the FCC grant the Department the authority to institute thousands-block number pooling, including virtual pooling, in a non-discriminatory manner. As the FCC found in the Massachusetts Delegation Order at ¶ 11, pooling in Massachusetts can be an important numbering resource optimization strategy, essential to extending the life of the NANP.¹⁴ National pooling will not occur in time to forestall the need for area code relief in western Massachusetts. Further, although the 413 NPA has not been formally declared by NeuStar to be in a jeopardy situation, its current estimated exhaust date is first quarter 2002, indicating an impending exhaust situation within two years. Further, as discussed above, the particular circumstances surrounding eFax.com's consumption of numbering resources in Massachusetts, the state's history of rapid number depletion forcing repeated area code relief

¹³ As overlay codes, the 339, 351, 774 and 857 eastern Massachusetts relief codes constitute an area identical to those areas in which the Department already has been delegated numbering conservation authority by the FCC in the Massachusetts Delegation Order. Portions of the eastern Massachusetts relief codes are within one of the 100 largest MSAs (i.e., the Boston, Massachusetts MSA), have an estimated life span of at least one year, and share the same "special circumstances" discussed above.

¹⁴ In the Massachusetts Delegation Order at ¶ 14, the FCC authorized the Massachusetts Department to conduct interim thousands-block number pooling in the 508, 617, 781 and 978 NPAs. The Department now seeks corresponding authority on a state-wide basis to include all areas in the state not specifically designated by the FCC in the Massachusetts Delegation Order.

activity in the recent past, as well as the prior delegation of authority to the Department to conduct interim pooling in NPAs which will soon be overlaid with relief codes, provide a satisfactory showing of “special circumstances” to permit the FCC to grant the Department authority to conduct thousands-block number pooling on a state-wide basis in conformance with the national framework for pooling established in the Numbering Resource Optimization Order.

B. Reclaim reserved exchange codes

In the Numbering Resource Optimization Order at ¶¶ 237-241, the FCC granted to state commissions the authority to investigate whether assigned NXXs have been timely activated by codeholders, and to reclaim unused codes. In the Massachusetts Delegation Order at ¶ 26, the FCC found that “reclamation of blocks of 1,000 numbers with no, or a relatively low, contamination rate has the potential to add significant numbering resources in areas where thousands-block number pooling has been implemented.” In the eastern LATA, the Department has established fill-rate ratios to ensure that numbers are being utilized efficiently. Furthermore, in the course of its number pooling and area code relief investigations for the eastern Massachusetts codes, the Department has issued two subpoenas to determine whether unutilized NXX codes existed among the industry and whether they were properly being reclaimed. In the Department’s eastern LATA area code proceeding, the Department requested carriers to return exchange codes they no longer needed. This resulted in the return of a number of codes by carriers, thereby extending the lives of certain eastern Massachusetts NPAs by up to a year. See 2000 Area Code Relief Order at 8.

The Department requests the similar authority to reclaim reserved exchange codes from the incumbent local exchange carrier, Bell Atlantic – Massachusetts. Theoretically, there are 792 NXX codes available for assignment to carriers in an area code (every possible combination of three digits excluding numbers beginning with a 0 or 1 and numbers ending with 11). However, a meaningful percentage of exchange codes (sometimes 30 to 50) are set aside for the incumbent local exchange carrier for testing, special codes, and other purposes. The FCC granted to the Department the authority to investigate whether any of these reserved exchange codes can be placed in carriers' pools for allocation in the 508, 617, 781 and 978 NPAs in the Massachusetts Delegation Order at ¶ 25. The Department respectfully requests the corresponding authority to investigate on a state-wide basis, including western Massachusetts and the eastern Massachusetts relief codes, whether any reserved exchange codes can be placed in the carriers' pools for allocation, without causing disruption to Bell Atlantic – Massachusetts' network operations.

C. Set code allocation standards

The Department requests that the FCC grant the Department the authority to set the standards for allocation of exchange codes to manage numbering resources more efficiently. Included within the authority to set code allocation standards is the authority to address fill rate and inventory level requirements. The FCC granted such a delegation of authority to the Department in the Massachusetts Delegation Order at ¶ 31 for the 508, 617, 781 and 978 NPAs, allowing the Department to issue its Fill-Rate Letter Order, D.T.E. 99-99 (January 27, 2000) ("Letter Order"), establishing fill-rates and utilization thresholds for carriers in the

currently-existing eastern Massachusetts NPAs.¹⁵ The Letter Order has allowed the Department to require from the carriers in these NPAs a greater level of actual need prior to obtaining additional numbering resources. In the Numbering Resource Optimization Order at ¶ 115, the FCC adopted a nationwide utilization threshold for non-pooling carriers beginning January 1, 2001, but did not set a precise level at which the threshold would be set.¹⁶ The Department requests authority to impose fill-rate requirements on a state-wide basis in Massachusetts, including western Massachusetts and the eastern Massachusetts relief codes, in the interim until the FCC makes its determination as to the precise national utilization threshold.

D. Set and/or revise rationing procedures

As stated above, although western Massachusetts faces an impending number shortage, the participating industry members did not vote in favor of rationing at the June 20, 2000 Implementation Meeting and there is no indication that they will establish a rationing plan in the future. However, the Department believes that number rationing may be a crucial step towards prolonging the 413 NPA until national number pooling is in place. Therefore, the Department respectfully requests the authority to implement and/or revise rationing procedures, if the Department finds such procedures to be necessary. In the California Delegation Order at ¶¶ 38-41, the FCC found that “extenuating and unique circumstances”

¹⁵ In its Letter Order at 3, the Department adopted a 75% fill-rate requirement for all carriers in order to obtain growth codes.

¹⁶ In the Number Resource Optimization Order at ¶ 115, the FCC requested additional comment on what specific utilization threshold should be required.

existed in California justifying the FCC's delegation of authority to the California Commission to order number rationing without an area code relief plan and relief date in place. Similar extenuating and unique circumstances likewise exist here in Massachusetts. First, although faced with the certainty of rapidly dwindling number resources, carriers in western Massachusetts have refused to undertake rationing measures voluntarily. Their refusal to do so is particularly puzzling given the industry's willingness to embrace rationing in the eastern regions of the state.¹⁷ Second, the Massachusetts Senate recently adopted a resolution formally requesting the Department and the Governor of the state to investigate expeditiously all potential alternatives to preserve the use of the single existing 413 NPA in western Massachusetts.¹⁸ The Massachusetts House of Representatives passed an identical resolution.¹⁹ These resolutions evidence a clear mandate from the Massachusetts Legislature that the Department must undertake every available measure to preserve the existing area code in

¹⁷ Currently, six NXX codes are being rationed each month in the 508 and 617 area codes, eight are being rationed monthly in the 781 area code, and ten are being rationed in the 978 code. The Massachusetts Commission has authority as a result of the FCC's Massachusetts Delegation Order at ¶ 30, to order a continuation of such rationing in the existing and new overlay codes in eastern Massachusetts for six months following the implementation of the new overlay codes in eastern Massachusetts in April 2001.

¹⁸ 2000 Senate Resolutions Urging His Excellency, Governor Argeo Paul Cellucci, and the Department of Telecommunications and Energy to investigate number conservation measures for the western Massachusetts region (adopted July 6, 2000).

¹⁹ 2000 House of Representatives Resolutions Urging His Excellency, Governor Argeo Paul Cellucci and the Department of Telecommunications and Energy to investigate number conservation measures for the western Massachusetts region (adopted July 12, 2000).

western Massachusetts. The Department would follow this path, even absent these resolutions. Third, if the FCC were to grant the Department authority to set and/or revise rationing procedures on a state-wide basis, the Department does not intend to impose draconian measures upon the industry in western Massachusetts. Rather, the Department seeks to continue the present allocation system in western Massachusetts of approximately fourteen codes per month. This number is more generous than the rationing currently in effect in the four currently-existing eastern Massachusetts codes and will not unduly burden western Massachusetts' carriers from obtaining the numbering resources they require while preventing the potentially disruptive occurrence of a large, unanticipated request for numbers.²⁰ Fourth, as discussed above, eastern Massachusetts consumers and businesses have witnessed the creation of six new codes in just three years, and western Massachusetts now faces the prospect of code relief. The combination of these four factors within the state create extenuating circumstances justifying that the FCC grant the authority to set and/or revise number rationing measures in Massachusetts.

E. Hear and address claims of carriers seeking numbering resources outside the rationing process

If the FCC grants to the Department the authority to set and/or revise rationing procedures in Massachusetts, the Department respectfully requests the accompanying authority

²⁰ The Department notes that, in Vermont, a single acquisition of numbers by one carrier drastically accelerated the date by which Vermont is projected to run out of numbers. See Mass. Company Charged with Draining N.H., Vt. Of Needed Telephone Numbers, <http://www.boston.com/news/daily/21/phone-numbers.html>, Boston Globe, June 21, 2000.

to hear and address claims of a carrier's need for numbering resources outside of the rationing process. The Department currently has such authority in the 508, 617, 781, and 978 NPAs as a result of the Massachusetts Delegation Order at ¶ 38. The authority to hear and address claims of carriers that are in dire need of numbering resources ensures that carriers can continue to provide service to their prospective customers even in the presence of number rationing procedures. See id. For example, the Department recently responded affirmatively to the emergency request of MediaOne Telecommunications of Massachusetts, Inc. that the Department order NeuStar to allocate additional exchange codes outside of the rationing plan currently in place in eastern Massachusetts. See MediaOne Letter Order, D.T.E. 99-99 (February 11, 2000).

F. Maintain rationing procedures for six months following area code relief

Similarly, if the FCC were to grant to the Department authority over number rationing measures in Massachusetts, the Department respectfully requests the authority to continue such rationing procedures for six months following area code relief. As discussed above, the Department currently has this authority with respect to the eastern Massachusetts codes at issue in the Massachusetts Delegation Order at ¶ 30. The FCC stated "this measure seeks only to provide 'breathing room' to state commissions that have just undergone the difficult process of implementing a new area code." Id. at ¶ 29. Therefore, the Department seeks corresponding authority for western Massachusetts and the eastern Massachusetts relief codes.

V. CONCLUSION

The Department is preparing to open an investigation into area code relief for western Massachusetts. However, the Department believes that conservation measures can delay or prevent the need for new area codes in that part of the state. We have not made any substantive findings on what code conservation methods are appropriate for western Massachusetts at this time. However, we would like to have a full range of options available to us on a state-wide basis, including the 413 western Massachusetts code and the 774, 857, 339 and 351 eastern Massachusetts relief codes, as we consider ways to conserve exchange codes and delay or prevent the need for Massachusetts consumers and businesses to undergo again the disruption and inconvenience that comes with introducing new area codes. *To enable us to act with despatch, we respectfully request that the Commission expeditiously take up and grant this petition for conservation authority.*

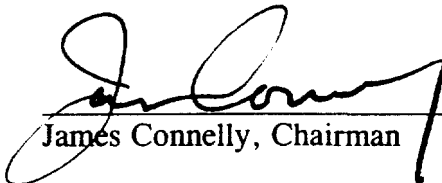
We share the Commission's commitment to the development of competitive telecommunications markets in which all potential technologies will have an opportunity to succeed. To best serve the needs of Massachusetts consumers and respond to the increasing demand for exchange codes, we seek additional authority to allow implementation of the code conservation methods for Massachusetts on a state-wide basis, including western Massachusetts and the eastern Massachusetts relief codes, in the interim until the FCC implements the

national number conservation measures envisioned in the Numbering Resource Optimization Order.

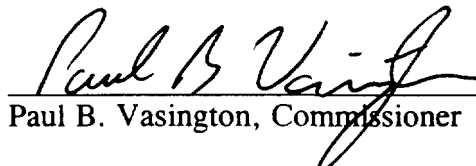
Respectfully submitted,

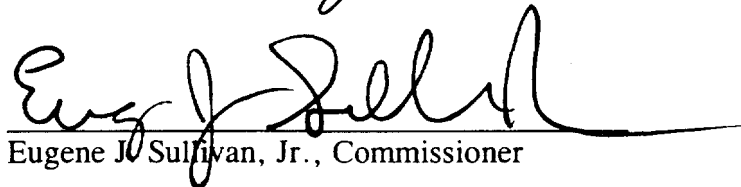
Commonwealth of Massachusetts
Department of Telecommunications and Energy

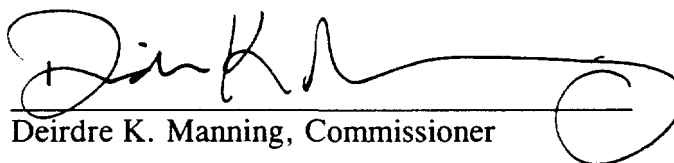
By:


James Connelly, Chairman


W. Robert Keating, Commissioner


Paul B. Vasington, Commissioner


Eugene J. Sullivan, Jr., Commissioner


Deirdre K. Manning, Commissioner

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054

Massachusetts Department of)
Telecommunications and Energy's)
Petition for Delegation of Additional)
Authority to Implement Number)
Conservation Measures in)
Massachusetts)

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